

REMARKS

Claims 14 to 28 are pending in the present application.

Reconsideration is respectfully requested based on the following.

Claims 14 to 26 were rejected under 35 U.S.C. § 103(a) as obvious over German Patent No. DE 10153484 (the "Gilge" reference) in view of Local Area Networks Architectures and Implementations (the "Martin" reference).

To reject a claim under 35 U.S.C. § 103(a), the Office bears the initial burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish *prima facie* obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

Also, as clearly indicated by the Supreme Court in *KSR*, it is "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. *See KSR Int'l Co. v. Teleflex, Inc.*, 127 S. Ct. 1727 (2007). In this regard, the Supreme Court further noted that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, at 1396. Second, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 800 F.2d 1091, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Third, the prior art reference(s) must teach or suggest all of the claim features. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

While the rejections may not be agreed with, to facilitate matters, claim 14 has been rewritten to provide for *an evaluation device configured to analyze output of at least a subset of the signal processors, the evaluation device and the at least a subset of the signal processors each forming a direct link to one of a central hub, a switch and a port, of a network having a star-shaped topology*. As presented, claim 14 provides that the evaluation device and the at least a subset of processors are each directly linked to a central hub/switch/port in a star network.

The Final Office Action asserts that the subject matter of the claims purportedly includes “predictable results” that can be obtained by applying a “known technique” to the device of the “Gilge” reference. In particular, the Final Office Action asserts that it would be obvious to replace the evaluation device 72 shown in Figure 2 of the “Gilge” reference with a central hub or switch. In this regard, the Final Office Action conclusorily asserts that i) the system shown in Figure 2 of the “Gilge” reference is a star-shaped network centered around the evaluation device and that ii) the evaluation device of the “Gilge” reference performs functions similar to that of a central hub or switch, and that it therefore would be obvious to replace the evaluation device with a central hub/switch.

The Gilge system does not form a star network. Even if the evaluation device may include a number of connections to other components in the system, the existence of a plurality of connections does not in itself qualify the evaluation device as a central hub of a star network. If this were the only requirement, then any well-connected component, e.g., the A/D converters 54 and 56, could be considered a central hub. It is the functionality of a component -- not its connections -- that determines whether the component is a central hub. In this regard, the Final Office Action ascribes to the evaluation device features which are neither disclosed nor suggested by the “Gilge” reference.

For example, the Final Office Action conclusorily asserts that the evaluation device must balance network traffic, record network data, perform network error checking and correction, adapt to increased workload from additional devices, and be reprogrammed to meet new communication standards. Support for these features simply does not exist in the “Gilge” reference. Instead, any review of this reference makes plain that the evaluation device is merely a processing device which receives certain inputs and produces certain outputs. Therefore, the purported motivation for replacing the evaluation device with a different device that includes the purported features, i.e., a central hub/switch, also does not exist.

With respect to the assertion that replacing the evaluation device with a central switch/hub yields predictable results, the advantageous results purportedly provided by the central switch/hub simply do not apply to the evaluation device of the “Gilge” reference. As explained above, features such as balancing network traffic, recording network data, performing network error checking, and adapting to increased workload, are not found in the evaluation device -- nor is there any apparent need for these features in Gilge’s system.

Further still, there is no indication that any usage of the central switch/hub would lift a significant workload from or free processing power of the evaluation device. Regardless of whether it is replaced with the central switch/hub, the evaluation device would still have to perform the processing of the audio/visual signals produced by the various processors as well as output to the data storage device and the digital network. That is, the evaluation device would perform the same amount of work. As to the assertions that the central switch/hub lowers overall system cost, facilitates ease of installation, reconfiguration and maintenance, and is more reliable, the Final Office Action does not explain how adding more components (the central switch/hub) would lower costs. Further, if the evaluation device and the central switch/hub as are interchangeable as asserted, there is no reason to assume that the central switch/hub is more reliable or easily installed/reconfigured/maintained than the evaluation device.

Based on these reasons, it is respectfully submitted that the "Martin" reference does not cure the deficiencies of the primary "Gilge" reference, so that one skilled in the art would not be motivated to combine these references.

For at least the above reasons, claim 14, as presented, is allowable, as are its dependent claims 15 to 28.

In sum, claims 14 to 28 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of presently pending claims 14 to 28 are allowable. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. Since all issues raised by the Examiner have been addressed, an early and favorable action on the merits is respectfully requested.

Dated: 3/23/2009

Respectfully submitted,

By: 

Gerard A. Messina
(Reg. No. 35,952)

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200

Reg. No.
33,865
Aaren C
O-EDITH

CUSTOMER NO. 26646